

**TITLE 9, CALIFORNIA CODE OF REGULATIONS**  
**Mental Health Services Act Prevention and Early Intervention**  
**Notice published: October 8, 2010**

**NOTICE OF PROPOSED RULEMAKING**

NOTICE IS HEREBY GIVEN that the Department of Mental Health (“Department”) is proposing to take the action described in the Informative Digest after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Department will hold a public hearing starting at 10:00 a.m. on November 23, 2010, at the California Department of Water Resources Auditorium located at 1416 9<sup>th</sup> Street, 1<sup>st</sup> Floor in Sacramento, California. The Auditorium is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The hearing will end when all comments have been received or at 5:00 P.M. whichever comes first.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted by facsimile (FAX) at 916-651-3852 or by e-mail to [DMH.Regulations@dmh.ca.gov](mailto:DMH.Regulations@dmh.ca.gov). The written comment period closes at **5:00 p.m. on November 23, 2010**. The Department will consider only comments received at the Department offices or at the public hearing, by that time. Submit comments to:

Stephanie L. Fields  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Section 5898 of the Welfare and Institutions Code, the Department of Mental Health (Department) is seeking changes to:

Division 1 of Title 9 of the California Code of Regulations as follows: Adopt Article 2, Sections 3200.251, 3200.259, 3200.305 and Amend Article 3, Section 3310, and Adopt Article 5, Sections 3515 and 3570, and Adopt Article 9, Sections 3900, 3900.1, 3905,

3910, 3920, 3930, 3940, 3945 and 3950. This proposed action implements, interprets, and makes specific Sections 5813.5, 5840, 5846, 5847, 5848, 5892, and 5897(a), Welfare and Institutions Code; Sections 2 and 3 of the Mental Health Services Act.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

This rulemaking action clarifies and makes specific the Prevention and Early Intervention (PEI) component of the Mental Health Services Act (MHSA) and will enable counties to transform California's mental health system. Prevention and Early Intervention targets individuals at risk for, or experiencing, a mental illness/emotional disturbance at its earliest stages, and promotes positive mental health. This is a new role for many in the mental health community, and provides a unique opportunity for intervention with a positive, proactive approach, versus what has traditionally been seen as a fail first system.

The California voters approved Proposition 63 during the November 2004 General Election. Proposition 63 became effective on January 1, 2005 as the Mental Health Services Act (MHSA). The MHSA expands mental health services to children/youth, adults and older adults who have serious mental illness or serious emotional disturbance and whose service needs are not being met through other funding sources. Through imposition of a 1% tax on personal income in excess of \$1 million, the MHSA provides the opportunity for the Department of Mental Health (DMH) to offer increased funding, personnel and resources to support county mental health programs and monitor progress toward statewide goals for children/youth, adults, older adults and families.

The MHSA directs the county mental health programs to develop and submit a three-year plan to DMH, which DMH has called the Three-Year Program and Expenditure Plan (Plan). The Plan is comprised of five components of activities and/or services for which the funding established under the MHSA can be spent. The components are Community Services and Supports for children, transition-age youth, adults and older adults; Capital Facilities and Technological Needs; Workforce Education and Training; Prevention and Early Intervention; and Innovative Programs.

Given the scale of each component, DMH is implementing each component on a sequential and/or phased-in approach. Accordingly, regulations related to each component are being drafted through a concurrent process as the MHSA components are developed. The Department drafted regulations governing the Community Services and Supports first and these were made final in February 2008. Since it was imperative that the Department begin to distribute funds to the Counties to allow the programs and services to commence, the Department included in this initial regulatory package, fiscal reporting requirements and implemented regulations based on its authority in the law and its current accounting system.

The Prevention and Early Intervention component of the MHSA is charged with:

- 1) preventing serious mental illness and emotional disturbance by promoting mental health, reducing mental health risk factors, and building the resilience of individuals; and

2) intervening to address mental health problems early in their emergence. Effective Prevention and Early Intervention strategies reduce the need for more costly mental health treatments, as well as the likelihood of future negative outcomes. Mental health education and promotion, key elements of Prevention and Early Intervention, have been shown to contribute to the reduction of stigma and discrimination.

This Informative Digest accompanies the proposed regulations to amend one regulation and adopt 14 regulations, located in the California Code of Regulations Title 9, Division 1, Chapter 14, Article 2, Definitions, Article 3, General Requirements, Article 5, Reporting Requirements and Article 9, Prevention and Early Intervention.

## **MATERIAL INCORPORATED BY REFERENCE**

Supporting documentation and relevant materials the Department relied upon in the Initial Statement of Reasons and/or the Informative Digest include:

1. Mental Health Services Act Proposed Guidelines, Prevention and Early Intervention Component of the Three-Year Program and Expenditure Plan, Fiscal Years 2007-08 and 2008-09
2. Mental Health Services Oversight and Accountability Commission (MHSOAC) Guidelines: Mental Health Services Act Prevention and Early Intervention: County and State Level Policy Direction
3. Department of Mental Health (DMH) Information Notice No. 07-17: County Funding Request for Mental Health Services Act (MHSA) Prevention and Early Intervention – Community Program Planning Funds
4. DMH Information Notice No. 07-19: Implementation of the MHSA, Welfare and Institutions Code (WIC) Section 5848
5. DMH Information Notice No. 08-23: Prevention and Early Intervention Projects – Change in Designation of “Alternate Programs”, Clarification of “Underserved Populations” as a Priority Population, and Modification of Timeline for Transferring a CSS Program to PEI
6. DMH Information Notice No. 08-27: Increased Level of Funding for Community Program Planning Activities and Funding Augmentation to the Mental Health Services Act Prevention and Early Intervention Planning Estimates (Fiscal Year 2008-09)
7. MHSOAC Prevention/Early Intervention Action Plan for the First Three Years
8. Mental Health Services Oversight and Accountability Commission Report on Co-Occurring Disorders

9. MSHOAC Report on Eliminating Stigma Against Persons with Mental Health Disabilities
10. Prevention and Early Intervention Trends Report 2009
11. National Association for the Mentally Ill (NAMI) Mental Illness Facts and Numbers
12. Reducing Risks for Mental Disorders: Frontiers for Prevention Intervention Research, Institute of Medicine, 1994)
13. Moran, M, Investing in Early Intervention Cuts Psychosis Treatment Costs, *Psychiatric News*, 44(21), 2009
14. Linszen, D, *et al*, Early intervention and a five-year follow-up in young adults with a short duration of untreated psychosis: ethical implications, *Schizophrenic Research*, 51(1) 2001
15. Pumariega, *et al*, Culturally competent systems of care for children's mental health: advances and challenges, *Community Mental Health Journal*, 41, 2005
16. Culture counts: the influence of culture and society on mental health, mental illness, *Surgeon General's Report on Mental Health* (Chapter 2), U.S. Department of Health and Human Services, Office of the Surgeon General, Substance Abuse and Mental Health Services Administration (SAMHSA)
17. Preventing Mental, Emotional, and Behavioral Disorders among Young People: Progress and Possibilities, Summary, Institute of Medicine, 2009

**THE DEPARTMENT HAS MADE THE FOLLOWING INITIAL DETERMINATIONS:**

The proposed regulatory action imposes mandates when and if county mental health applies for funds pursuant to these regulations. Proposition 63 created the Mental Health Services Act, which expanded mental health services, and was passed by the voters in November 2004. The County may choose to participate in the Prevention and Early Intervention (PEI) program; it is not a mandated program. If a county chooses to participate in this program, the State will provide funding to the county based on its approved Three-Year Program and Expenditure Plan.

DMH has determined that the regulations would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- Mandate on local agencies and school districts: **None.**
- Cost or savings to any state agency: **None.**

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: **None**
- Other nondiscretionary cost or savings imposed on local agencies: **None**
- Cost or savings in federal funding to the state: **None.**
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: **None**
- Cost impacts on a representative private person or businesses: The DMH is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These regulations **only** affect those County Mental Health Departments that choose to participate in the PEI program.
- Significant effect on housing costs: **None.**
- Small Business Determination: The proposed regulations would not affect small businesses as these regulations **only** affect those County Mental Health Departments that choose to participate in the PEI program.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of business currently doing business within California.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Stephanie L. Fields  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

Backup Contact:

Gayathri Murthy  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 654-2319

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, or other information upon which the rulemaking is based to Ms. Fields at the above address. Comments may also be submitted by facsimile (FAX) at (916) 651-3852 or by e-mail to [DMH.Regulations@dmh.ca.gov](mailto:DMH.Regulations@dmh.ca.gov). Comments must be submitted prior to **5:00 p.m. on November 23, 2010**.

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The Department has available the rulemaking file for inspection and copying at its office at 1600 9th Street room 435, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based. These documents may also be viewed and downloaded from the Department's website at [www.dmh.ca.gov](http://www.dmh.ca.gov).

Following the public comment period the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be viewed and downloaded from the Department's website at [www.dmh.ca.gov](http://www.dmh.ca.gov) or by contacting Ms. Fields at the above address.

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